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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,742	01/23/2001	John Posey	BD46-17	2270
7590	03/31/2004		EXAMINER	
EDWARD P. DUTKIEWICZ P.O. BOX 511 LARGO, FL 33779-0511			WHITE, CARMEN D	
			ART UNIT	PAPER NUMBER
			3714	j /

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/767,742	POSEY, JOHN
<b>Examiner</b>	<b>Art Unit</b>	
	Carmen D. White	3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 19 December 2003.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-5 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-5 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Withdrawal of Finality***

In view of the supplemental appeal brief filed on December 19, 2003, PROSECUTION IS HEREBY REOPENED. A new grounds of rejections is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: line 31 of the claim recites "programmed". It is misspelled. Appropriate correction is required.

Claim 2 is objected to because of the following informalities: lines 5 and 6-7 recite "cellular technology device" and "cellular digital packet data technology device". The word –a—needs to be inserted before these limitations to make the claim read more clearly. Appropriate correction is required.

Claim 4 is objected to because of the following informalities: lines 9-10 recites "the global positioning system **collecting** thereby **collecting** information"; and lines 21-

22 recite "there is **there** another region". Similarly, lines 56-57 of claim 5 recite this limitation. This claim language is redundant. Appropriate correction is required.

Claim 5 is objected to because of the following informalities: line 23 recites "**interncomputer** access". There is a spelling error in this claim limitation. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 3 and 5, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claims 1 and 3 recite the limitation "the clubhouse" in lines 14 and 15, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the system" in line 15. It is not clear whether applicant is referring to the previously recited "golfing aide system" or the "operating system". Therefore, there is insufficient antecedent basis for this limitation in the claim.

Similarly, claims 3 and 5 recite "the system" in lines 11 (claim 3) and lines 35-36 and 38 (claim 5). It is not clear to which previously recited **system** this limitation refers.

Claim 4 recites "the outline" in lines 11-12 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites "the outline" in line 46 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites "the associated region" in line 54 of the claim. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Barnard** (6,456,938) in view of **Lobb** et al, further in view of **Dudley** (5,772,534), further in view of **Karmel** (6,353,743).

Regarding claims 1-3, Barnard teaches a golfing aide system for assisting golfers and improving their game that comprises:

a global positioning system {dGPS} device used to accurately locate positions of key landmarks on a golf course for mapping of a landscape of a golf course, the global positioning system device being able to transmit and receive information (abstract; Fig. 1; Fig. 3; col. 6, lines 1-5 and lines 13-16); a wireless modem being able to link the golfing aide system to a phone line and provide for data communication, the wireless

modem being able to transmit and receive information (col. 16, lines 51-67 through col. 17, lines 1-20); a cellular digital packet data technology device for transmitting and receiving information that allows for fast and cost effective transmission of data for intercomputer access (col. 17, lines 5-10); a handheld personal computer for transmitting and receiving information between the personal computer and the GPS, modem and cellular digital packet data device (Fig. 1). Barnard further teaches an operating system and software for performing a plurality of programmed functions to enable the system to input, provide and store information for assisting a golfer including distance calculations, equipment indication, club selection, scoring cataloguing courses, mapping of the landscape of the course, etc. (abstract; Figures 5, 12, 15, 1617, 18, 19, 23, 28, 29). Barnard is silent regarding whether or not the personal computer has a touch screen. In an analogous golfing aide system, Lobb teaches this feature (Fig. 2, #130). It would have been obvious to a person of ordinary skill in the art at the time of the invention to include a touch screen as taught by Lobb in Barnard to make it easier for the user/golfer to input information; thereby making the system more convenient for the golfer. Barnard is silent regarding the explicit disclosure of cellular technology for mobile phone communications. In an analogous golfing aide system, Karmel teaches this feature (col. 3, lines 4-13). It would have been obvious to a person of ordinary skill in the art at the time of the invention to include this feature of Karmel in Barnard to equip the golfers with an additional means of transmitting and receiving information; thereby increasing the communication capability of the hand held device and making the system more convenient for the golfers. Further, Barnard is silent regarding the explicit teaching of a

low power radio frequency transceiver for allowing the golfer to communicate with the golf club house. In an analogous golfing aide system, Dudley teaches a radio frequency transceiver that allows golfers to communicate with the clubhouse (Fig. 4). Dudley is silent regarding the explicit disclosure of the radio frequency transceiver being low power. However the transceiver of Dudley is used locally (in a small area) on a golf course therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to employ a low power transceiver to make the device less expensive and more cost effective to mass produce.

#### ***Allowable Subject Matter***

Claims 4-5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph and claim objections, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not explicitly teach the features of the global positioning system collecting latitude and longitude coordinates ***at a rate of no less than one coordinate per second*** and "ending the data collection by a manual disabling of the data collection".

#### ***Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tarlie (6,697,820) teaches a golfing aid system..

***Conclusion***

Applicant's arguments with respect to the rejection(s) of claim(s) 1-5 previously under a final rejection have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made, above. Therefore Applicant's arguments are now moot in light of the new claim rejections, above.

***USPTO Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen D. White whose telephone number is 703-308-5275. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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